

Attachment to Independent Case Review Report
for CDRU # 586 Case File # 95-281602.

Material Examiner Malone (RO)

Remarks:

After research it has been determined that
submission 880603040 S RO may have been
discontinued at the time of review by the
Independent Scientist.

INDEPENDENT CASE REVIEW REPORT

b7C

Independent Review conducted by _____

Area(s) of Expertise

HAIR AND FIBERS

Review commenced at

9:55A (Time),

5/20/99 (Date)

File #

95-281602

Laboratory #(s)

80203021

80211039

Examiner(s) & Symbols

	Reviewed	Not Reviewed	Reviewed	Not Reviewed
<u>RQ</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Materials Reviewed

Trial testimony transcript(s) of

MICHAEL MALONE

Testimony Date(s)

UNKNOWN

Pages

759-830

Laboratory Report(s)

Laboratory Number

80203021 80211039

Date

2-24-88

Laboratory Number

Date

Laboratory Number

Date

Examiner Bench Notes of

RQ AND 3 UNKNOWN TECHNICIANS

Laboratory Number

80203021

Laboratory Number

80211039

Laboratory Number

Page

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Initials

SJA

Was any other material reviewed? Yes No

If yes, please identify and/or describe the material _____

Results of Review

File # 95-281602 Item or Specimen # Reviewed Q26-Q44, K1-K4, K20

K22, K23

Review of Laboratory Report(s) and Bench Notes

Note: Numbered comments are required below or on additional pages for any "No" or "Unable to Determine" Responses

- 1) Did the examiner perform the appropriate tests in a scientifically acceptable manner, based on the methods, protocols, and analytic techniques available at the time of the original examination(s)?
 Yes No Unable to Determine
- 2) Are the examination results set forth in the laboratory report(s) supported and adequately documented in the bench notes?
 Yes No Unable to Determine

Review of Testimony

Note: Numbered comments are required below or on additional pages for any "No" or "Unable to Determine" Responses

- Transcript not available
- 3) Testimony consistent with the laboratory report(s)? Yes No Unable to Determine
- 4) Testimony consistent with the bench notes? Yes No Unable to Determine
- 5) Testimony within bounds of examiner's expertise? Yes No Unable to Determine

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Initials sun

Comments

(Set forth by above question #, if applicable
Use "Additional Comments" Sheet, if needed)

#1. THE EXAMINER HAD INSTRUMENTS AND TEST PROCEDURES AVAILABLE TO HIM AT THE TIME OF EXAMINATION THAT HE COULD AND SHOULD HAVE UTILIZED. BY PERFORMING MELTING POINT OR INFRARED ANALYSIS (OR OTHER AVAILABLE TESTS), HE COULD HAVE DETERMINED IF ALL FIBERS WERE THE SAME TYPE OF POLYMER. THIS CANNOT BE DETERMINED BY THE TESTING HE PERFORMED, AS HE ADMITS IN HIS TESTIMONY, SUFFICIENT SAMPLE WAS AVAILABLE TO DO THESE TESTS.

ONE CANNOT ALWAYS DETERMINE IF TWO FIBERS HAVE THE SAME CROSS-SECTION SHAPE FROM A LONGITUDINAL VIEW AS WAS PERFORMED IN THIS CASE. PREPARING AND COMPARING CROSS-SECTIONS ALLOWS AN EXAMINER TO BETTER CHARACTERIZE THE FIBERS' MODIFICATION RATIOS AND THIS COULD HAVE BEEN DONE.

Review completed at 4 55A (Time), 5 120 199 (Date)

Total time spent conducting review (to nearest 1/4 hour) 5 3/4 HOURS

I hereby certify that I conducted this review in an independent, unbiased manner and that the results of my review are fully documented on this report consisting of a total of 2 pages

[Signature Box]

(Signature)

5-20-99
(Date)

b7C

Q27 - fiber from
victim's leg warmer

(Set Q36 - fiber from
victim's coat sleeve

K20 - fiber from
police cruiser 306

File# 95-281602

#1 (CONTINUED):

MULTIPLE RUNS OF THE K20 FIBERS COULD AND SHOULD HAVE BEEN PERFORMED ON THE MICROSPECTROPHOTOMETER. IT IS DIFFICULT TO AGREE THAT FIBERS Q27, Q36 AND K20 ARE "ABSOLUTELY THE SAME", AS THE EXAMINER TESTIFIES, FROM LOOKING AT THE MICROSPECTROPHOTOMETER ABSORPTION CURVES FOR THESE FIBERS.

#2. THE NOTES DO NOT ADEQUATELY DOCUMENT THE REPORTED RESULTS. THERE ARE NO DATES OR INITIALS ON THE NOTES. NUMEROUS ABBREVIATIONS, WHICH CANNOT BE INTERPRETED BY THIS REVIEWER, ARE USED TO DESCRIBE CHARACTERISTICS OBSERVED BY THE EXAMINER IN THE HAIR AND FIBERS. NOTES MADE DURING SCREENING OF Q27, Q36 AND OTHER ITEMS DO NOT DOCUMENT THE RECOVERY OF ANY HAIR OR FIBERS FROM THOSE ITEMS. THERE IS ABSOLUTELY NO DOCUMENTATION OF THE DIAMETER AND DIAMETER VARIATION OF FIBERS Q27, Q36 AND K20. PHOTOGRAPHS OF THESE FIBERS WERE MADE FOR COURT PRESENTATION BUT NONE ARE IN THE CASE FILE.

#3. TESTIMONY THAT THE FIBERS HAVE THE "SAME DYE" AND WERE "MADE BY THE SAME MANUFACTURER" IS MUCH STRONGER THAN THE CONCLUSION OF "CONSISTENT WITH" STATED IN THE REPORT.

#4. TESTIMONY THAT THE MICROSPECTROPHOTOMETER ^{SUR} ~~CURVES~~ ABSORPTION CURVES FOR Q27, Q36 AND K20 FIBERS ARE

Additional Comments
(Set forth by question #, if applicable)

File # 95-281602

#4 (CONTINUED):

"ABSOLUTELY THE SAME" IS NOT CORRECT. SEE #1 ABOVE.

#5. TESTIMONY THAT "IF YOU CAN MATCH AN UNKNOWN FIBER AND KNOWN TO THE SAME DYE, THEN YOU HAVE CUT IT DOWN FROM ONE OF 7,000 DIFFERENT DYES" IS MISLEADING IF NOT INCORRECT. THE CONTEXT OF THIS STATEMENT IS WHEN THE EXAMINER IS EXPLAINING TO THE JURY WHAT INFORMATION CAN BE DETERMINED BY PERFORMING MICROSPECTROPHOTOMETRY ON FIBERS. PUBLISHED SCIENTIFIC ARTICLES REPORT THAT A DYE CANNOT BE IDENTIFIED USING MICROSPECTROPHOTOMETRY, IT IS USED TO MEASURE COLOR.

IT IS IMPOSSIBLE TO ANSWER THE HYPOTHETICAL QUESTION POSED ON PAGE 795 OF THE TRANSCRIPT, BUT THIS WITNESS DID. NO ONE CAN DETERMINE OR ESTIMATE WITH ANY ACCURACY THE NUMBER OF FIBERS THAT MAY HAVE BEEN ON THE VICTIM'S CLOTHING TEN DAYS BEFORE SHE WAS FOUND. THERE IS NO SCIENTIFIC BASIS FOR DOING SO AND PUBLISHED ARTICLES POINT OUT THAT IT IS AN IMPOSSIBLE TASK.